



Reprinted
February 24, 2009

HOUSE BILL No. 1602

DIGEST OF HB 1602 (Updated February 23, 2009 4:55 pm - DI 73)

Citations Affected: IC 4-13; IC 31-19; IC 31-25; IC 31-27; IC 31-33; IC 31-34; IC 31-39; IC 34-30.

Synopsis: Department of child services ombudsman bureau. Establishes the department of child services ombudsman bureau (ombudsman bureau) as a separate bureau within the department of administration. Requires the department of administration to administer, determine salaries, and determine other personnel matters of the ombudsman bureau. Provides that the ombudsman bureau may review all records of the department of child services, including all records of the department related to vendors and contractors. Provides that a copy of the bureau's annual report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the bureau. Specifies the powers and duties of an ombudsman. Adds a representative of the ombudsman bureau to local child fatality review committees and the statewide child fatality review committee. Authorizes a juvenile court to refer a case to the ombudsman bureau to investigate the implementation of a child in need of services dispositional decree. Provides immunity from civil liability to: (1) persons who release information to the ombudsman bureau; and (2) the ombudsman for the good faith performance of official duties.

Effective: July 1, 2009.

Brown C, Barnes, Frizzell

January 16, 2009, read first time and referred to Committee on Family, Children and Human Affairs.
February 19, 2009, amended, reported — Do Pass.
February 23, 2009, read second time, amended, ordered engrossed.

HB 1602—LS 6007/DI 107+



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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1602

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-13-1-4, AS AMENDED BY P.L.1-2006,
2 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 4. The department shall, subject to this chapter,
4 do the following:

5 (1) Execute and administer all appropriations as provided by law,
6 and execute and administer all provisions of law that impose
7 duties and functions upon the executive department of
8 government, including executive investigation of state agencies
9 supported by appropriations and the assembly of all required data
10 and information for the use of the executive department and the
11 legislative department.

12 (2) Supervise and regulate the making of contracts by state
13 agencies.

14 (3) Perform the property management functions required by
15 IC 4-20.5-6.

16 (4) Assign office space and storage space for state agencies in the
17 manner provided by IC 4-20.5-5.

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(5) Maintain and operate the following for state agencies:

(A) Central duplicating.

(B) Printing.

(C) Machine tabulating.

(D) Mailing services.

(E) Centrally available supplemental personnel and other essential supporting services.

The department may require state agencies to use these general services in the interests of economy and efficiency. The general services rotary fund is established through which these services may be rendered to state agencies. The budget agency shall determine the amount for the general services rotary fund.

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

(7) Promulgate and enforce rules relative to the travel of officers and employees of all state agencies when engaged in the performance of state business. These rules may allow reimbursement for travel expenses by any of the following methods:

(A) Per diem.

(B) For expenses necessarily and actually incurred.

(C) Any combination of the methods in clauses (A) and (B).

The rules must require the approval of the travel by the commissioner and the head of the officer's or employee's department prior to payment.

(8) Administer IC 4-13.6.

(9) Prescribe the amount and form of certified checks, deposits, or bonds to be submitted in connection with bids and contracts when not otherwise provided for by law.

(10) Rent out, with the approval of the governor, any state property, real or personal:

(A) not needed for public use; or

(B) for the purpose of providing services to the state or employees of the state;

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the

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commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer, determine salaries, and determine other personnel matters of the department of correction ombudsman bureau established by IC 4-13-1.2-3.

(16) Adopt rules to establish and implement a "Code Adam" safety protocol as described in IC 4-20.5-6-9.2.

(17) Adopt policies and standards for making state owned property reasonably available to be used free of charge as locations for making motion pictures.

(18) Administer, determine salaries, and determine other personnel matters of the department of child services ombudsman bureau established by IC 4-13-19-3.

SECTION 2. IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 19. Department of Child Services Ombudsman Bureau

Sec. 1. As used in this chapter, "bureau" refers to the department of child services ombudsman bureau established by section 3 of this chapter.

Sec. 2. As used in this chapter, "ombudsman" means an

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employee of the bureau or an individual approved by the bureau to investigate and resolve complaints that the department of child services endangered the health and safety of any person or violated specific laws, rules, or written policies. The term includes individuals approved to act in the capacity of ombudsmen by the department of child services ombudsman bureau.

Sec. 3. The department of child services ombudsman bureau is established as a separate bureau within the Indiana department of administration.

Sec. 4. (a) The governor shall appoint a director of the bureau. The governor shall appoint a successor director within thirty (30) days after a vacancy occurs in the position of the director. The director serves at the pleasure of the governor. An individual may not be appointed as director if the individual has been employed by the department of child services at any time during the preceding twelve (12) months.

(b) The director may employ technical experts and other employees to carry out the purposes of this chapter. However, the director may not hire an individual to serve as an ombudsman if the individual has been employed by the department of child services during the preceding twelve (12) months.

Sec. 5. (a) An ombudsman may receive, investigate, and attempt to resolve complaints that the department of child services:

- (1) violated a specific law, rule, or department written policy; or
- (2) endangered the health or safety of any person by an action or omission.

(b) The ombudsman may, on the ombudsman's own initiative, initiate a review of any department of child services' action, policy, or procedure or a review to determine whether the department of child services:

- (1) violated a specific law, rule, or department written policy; or
- (2) endangered the health or safety of any person by an action or omission.

(c) The ombudsman shall not investigate a complaint from an employee of the department of child services that relates to the employee's employment relationship with the department of child services.

(d) At the conclusion of an investigation of a complaint, the ombudsman shall report the ombudsman's findings to the complainant.

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(e) If the ombudsman does not investigate a complaint, the ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 6. (a) An ombudsman shall be given appropriate access to department of child services records of a person who files a complaint under this chapter.

(b) A state or local government agency or entity that has records that are relevant to a complaint or an investigation conducted by an ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

(1) civil or criminal liability; and

(2) actions taken under:

(A) a professional disciplinary procedure; or

(B) procedures related to the termination or imposition of penalties under a contract dealing with an employee or contractor of the department of child services;

for the release or disclosure of records to the ombudsman under this chapter.

Sec. 7. (a) The director of the bureau shall do the following:

(1) Establish procedures to receive and investigate complaints.

(2) Establish access controls for all information maintained by the bureau.

(3) Except as necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

(A) the complainant's written consent; or

(B) a court order.

(b) The correspondence and communication between the ombudsman and any person is a privileged communication.

Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. An ombudsman is not civilly liable for the good faith performance of official duties.

Sec. 10. (a) The director of the bureau shall prepare a report each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

(1) The governor.

(2) The legislative council.

(3) The Indiana department of administration.

(4) The department of child services.

A report provided under this subsection to the legislative council

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1 must be in an electronic format under IC 5-14-6.

2 (c) A copy of the report shall be posted on the department of
3 child services' Internet web site and on any Internet web site
4 maintained by the bureau.

5 Sec. 11. A person who:

6 (1) intentionally interferes with or prevents the completion of
7 the work of an ombudsman;

8 (2) knowingly offers compensation to an ombudsman in an
9 effort to affect the outcome of an investigation or a potential
10 investigation;

11 (3) knowingly or intentionally retaliates against another
12 person who provides information to an ombudsman; or

13 (4) makes threats against an ombudsman, a person who has
14 filed a complaint, or a person who provides information to an
15 ombudsman, because of an investigation or potential
16 investigation;

17 commits a Class A misdemeanor.

18 Sec. 12. The Indiana department of administration shall provide
19 and maintain office space for the bureau.

20 SECTION 3. IC 31-19-19-2, AS AMENDED BY P.L.145-2006,
21 SECTION 254, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) All files and records
23 pertaining to the adoption proceedings in:

24 (1) the county office of family and children;

25 (2) the department; or

26 (3) any of the licensed child placing agencies;

27 are confidential and open to inspection only as provided in
28 IC 31-19-13-2(2), IC 31-19-17, or IC 31-19-25.

29 (b) The files and records described in subsection (a), including
30 investigation records under IC 31-19-8-5 (or IC 31-3-1-4 before its
31 repeal):

32 (1) are open to the inspection of the court hearing the petition for
33 adoption; ~~and~~

34 (2) on order of the court, may be:

35 (A) introduced into evidence; and

36 (B) made a part of the record;

37 in the adoption proceeding; **and**

38 (3) **are open to the inspection of the department of child**
39 **services ombudsman bureau.**

40 SECTION 4. IC 31-25-5 IS ADDED TO THE INDIANA CODE AS
41 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 2009]:

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**Chapter 5. Cooperation With Department of Child Services
Ombudsman**

Sec. 1. As used in this chapter, "bureau" refers to the department of child services ombudsman bureau established within the Indiana department of administration by IC 4-13-19-3.

Sec. 2. As used in this chapter, "ombudsman" means an employee of the bureau or an individual approved by the bureau to investigate and resolve complaints regarding the health and safety of any person, and violations by the department of specific laws, rules, or written policies. The term includes individuals approved to act in the capacity of ombudsmen by the department of child services ombudsman bureau.

Sec. 3. The department and the juvenile court with jurisdiction over the child shall provide an ombudsman with:

(1) appropriate access to all records of the department, including all records of the department related to vendors and contractors; and

(2) immediate access, without prior notice, to any facility in which a child is placed or is receiving services funded by the department.

SECTION 5. IC 31-27-3-18, AS AMENDED BY P.L.138-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records regarding each child in the control and care of the licensee as the department requires and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child caring institution.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

(4) An agency having the legal responsibility to care for a child placed at the child caring institution.

(5) The parent, guardian, or custodian of the child at the child caring institution.

(6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman bureau established by IC 4-13-19-3.

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SECTION 6. IC 31-27-4-21, AS AMENDED BY P.L.138-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department upon request the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the foster family home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the foster family home.
- (5) The parent, guardian, or custodian of the child at the foster family home.
- (6) A citizen review panel established under IC 31-25-2-20.4.

(7) The department of child services ombudsman bureau established by IC 4-13-19-3.

SECTION 7. IC 31-27-5-18, AS AMENDED BY P.L.138-2007, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) A licensee shall keep records required by the department regarding each child in the control and care of the licensee and shall report to the department, upon request, the facts the department requires with reference to children.

(b) The department shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

- (1) A state agency involved in the licensing of the group home.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for a child placed at the group home.
- (5) The parent, guardian, or custodian of the child at the group home.
- (6) A citizen review panel established under IC 31-25-2-20.4.
- (7) The department of child services ombudsman bureau**

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1 **established by IC 4-13-19-3.**

2 SECTION 8. IC 31-27-6-15, AS AMENDED BY P.L.138-2007,
3 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 15. (a) A licensee shall keep records required by
5 the department regarding each child in the control and care of the
6 licensee and shall report to the department upon request the facts the
7 department requires with reference to children.

8 (b) The department shall keep records regarding children and facts
9 learned about children and the children's parents or relatives
10 confidential.

11 (c) The following have access to records regarding children and
12 facts learned about children:

13 (1) A state agency involved in the licensing of the child placing
14 agency.

15 (2) A legally mandated child protection agency.

16 (3) A law enforcement agency.

17 (4) A citizen review panel established under IC 31-25-2-20.4.

18 **(5) The department of child services ombudsman bureau**
19 **established by IC 4-13-19-3.**

20 SECTION 9. IC 31-33-18-1, AS AMENDED BY P.L.145-2006,
21 SECTION 283, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in section
23 1.5 of this chapter, the following are confidential:

24 (1) Reports made under this article (or IC 31-6-11 before its
25 repeal).

26 (2) Any other information obtained, reports written, or
27 photographs taken concerning the reports in the possession of:

28 (A) the division of family resources;

29 (B) the county office; or

30 (C) the department.

31 (b) Except as provided in section 1.5 of this chapter, all records held
32 by:

33 (1) the division of family resources;

34 (2) a county office;

35 (3) the department;

36 (4) a local child fatality review team established under
37 IC 31-33-24; ~~or~~

38 (5) the statewide child fatality review committee established
39 under IC 31-33-25; **or**

40 **(6) the department of child services ombudsman bureau**
41 **established by IC 4-13-19-3;**

42 regarding the death of a child determined to be a result of abuse,

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abandonment, or neglect are confidential and may not be disclosed.

SECTION 10. IC 31-33-18-1.5, AS AMENDED BY P.L.145-2006, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) This section applies to records held by:

- (1) the division of family resources;
- (2) a county office;
- (3) the department;
- (4) a local child fatality review team established under IC 31-33-24; ~~or~~
- (5) the statewide child fatality review committee established under IC 31-33-25; **or**
- (6) the department of child services ombudsman bureau established by IC 4-13-19-3;**

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

- (1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or
- (2) a prosecuting attorney files:
 - (A) an indictment or information; or
 - (B) a complaint alleging the commission of a delinquent act; that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) As used in this section:

- (1) "identifying information" means information that identifies an individual, including an individual's:
 - (A) name, address, date of birth, occupation, place of employment, and telephone number;
 - (B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

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1 (C) unique biometric data, including the individual's
 2 fingerprint, voice print, or retina or iris image;
 3 (D) unique electronic identification number, address, or
 4 routing code;
 5 (E) telecommunication identifying information; or
 6 (F) telecommunication access device, including a card, a plate,
 7 a code, an account number, a personal identification number,
 8 an electronic serial number, a mobile identification number, or
 9 another telecommunications service or device or means of
 10 account access; and
 11 (2) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.
 12 (d) Unless information in a record is otherwise confidential under
 13 state or federal law, a record described in subsection (a) that has been
 14 redacted in accordance with this section is not confidential and may be
 15 disclosed to any person who requests the record. The person requesting
 16 the record may be required to pay the reasonable expenses of copying
 17 the record.
 18 (e) When a person requests a record described in subsection (a), the
 19 entity having control of the record shall immediately transmit a copy of
 20 the record to the court exercising juvenile jurisdiction in the county in
 21 which the death or near fatality of the child occurred. However, if the
 22 court requests that the entity having control of a record transmit the
 23 original record, the entity shall transmit the original record.
 24 (f) Upon receipt of the record described in subsection (a), the court
 25 shall, within thirty (30) days, redact the record to exclude:
 26 (1) identifying information described in subsection (c)(1)(B)
 27 through (c)(1)(F) of a person; and
 28 (2) all identifying information of a child less than eighteen (18)
 29 years of age.
 30 (g) The court shall disclose the record redacted in accordance with
 31 subsection (f) to any person who requests the record, if the person has
 32 paid:
 33 (1) to the entity having control of the record, the reasonable
 34 expenses of copying under IC 5-14-3-8; and
 35 (2) to the court, the reasonable expenses of copying the record.
 36 (h) The court's determination under subsection (f) that certain
 37 identifying information or other information is not relevant to
 38 establishing the facts and circumstances leading to the death or near
 39 fatality of a child is not admissible in a criminal proceeding or civil
 40 action.
 41 SECTION 11. IC 31-33-18-2, AS AMENDED BY P.L.138-2007,
 42 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
 - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
 - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.
- (9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public

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disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

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- 1 (ii) a person licensed to operate;
- 2 (iii) an employee of; or
- 3 (iv) a volunteer providing services at;
- 4 a child care center licensed under IC 12-17.2-4 or a child care
- 5 home licensed under IC 12-17.2-5.

6 (20) A citizen review panel established under IC 31-25-2-20.4.

7 **(21) The department of child services ombudsman bureau**
 8 **established by IC 4-13-19-3.**

9 SECTION 12. IC 31-33-24-9, AS AMENDED BY P.L.225-2007,
 10 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2009]: Sec. 9. (a) A local child fatality review team consists
 12 of the following members:

13 (1) A coroner or deputy coroner from the area served by the local
 14 child fatality review team.

15 (2) A representative from:

16 (A) the health and hospital corporation of Marion County as
 17 set forth in IC 16-22-8;

18 (B) a local health department established under IC 16-20-2; or

19 (C) a multiple county health department established under
 20 IC 16-20-3;

21 from the area served by the local child fatality review team.

22 (3) A physician residing or practicing medicine in the area served
 23 by the local child fatality review team.

24 (4) A representative of law enforcement from the area served by
 25 the local child fatality review team.

26 (5) A representative from an emergency medical services provider
 27 doing business in the area served by the local child fatality review
 28 team.

29 (6) A director or manager of a local or regional office of the
 30 department from the area served by the local child fatality review
 31 team.

32 (7) A representative of the prosecuting attorney from the area
 33 served by the local child fatality review team.

34 (8) A pathologist with forensic experience who is licensed to
 35 practice medicine in Indiana and who, if feasible, is certified by
 36 the American Board of Pathology in forensic pathology.

37 (9) A representative from a fire department or volunteer fire
 38 department (as defined in IC 36-8-12-2) from the area served by
 39 the local child fatality review team.

40 **(10) A representative of the department of child services**
 41 **ombudsman bureau established by IC 4-13-19-3.**

42 (b) If a local child fatality review team is established in one (1)

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1 county, the legislative body that voted to establish the local child
2 fatality review team under section 6 of this chapter shall:

- 3 (1) adopt an ordinance for the appointment and reappointment of
- 4 members of the local child fatality review team; and
- 5 (2) appoint members to the local child fatality review team under
- 6 the ordinance adopted.

7 (c) If a local child fatality review team is established in a region, the
8 county legislative bodies that voted to establish the local child fatality
9 review team under section 6 of this chapter shall:

- 10 (1) each adopt substantially similar ordinances for the
- 11 appointment and reappointment of members of the local child
- 12 fatality review team; and
- 13 (2) appoint members to the local child fatality review team under
- 14 the ordinances adopted.

15 SECTION 13. IC 31-33-25-6, AS ADDED BY P.L.145-2006,
16 SECTION 288, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The statewide child fatality
18 review committee is established to review a child's death that is:

- 19 (1) sudden;
- 20 (2) unexpected; or
- 21 (3) unexplained;

22 if the county where the child died does not have a local child fatality
23 review team or if the local child fatality review team requests a review
24 of the child's death by the statewide committee.

25 (b) The statewide child fatality review committee may also review
26 the death of a child upon request by an individual **or the department**
27 **of child services ombudsman bureau established by IC 4-13-19-3.**

28 (c) A request submitted under subsection (b) must set forth:

- 29 (1) the name of the child;
- 30 (2) the age of the child;
- 31 (3) the county where the child died;
- 32 (4) whether a local child fatality review team reviewed the death;
- 33 and
- 34 (5) the cause of death of the deceased child.

35 SECTION 14. IC 31-33-25-8, AS AMENDED BY P.L.225-2007,
36 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2009]: Sec. 8. The statewide child fatality review committee
38 consists of the following members appointed by the governor:

- 39 (1) a coroner or deputy coroner;
- 40 (2) a representative from:
- 41 (A) the state department of health established by IC 16-19-1-1;
- 42 (B) a local health department established under IC 16-20-2; or

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(C) a multiple county health department established under IC 16-20-3;

(3) a pediatrician;

(4) a representative of law enforcement;

(5) a representative from an emergency medical services provider;

(6) the director or a representative of the department;

(7) a representative of a prosecuting attorney;

(8) a pathologist who is:

(A) certified by the American Board of Pathology in forensic pathology; and

(B) licensed to practice medicine in Indiana;

(9) a mental health provider;

(10) a representative of a child abuse prevention program; ~~and~~

(11) a representative of the department of education; ~~and~~

(12) a representative of the department of child services ombudsman bureau established by IC 4-13-19-3.

SECTION 15. IC 31-33-26-5, AS ADDED BY P.L.138-2007, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the index must be maintained.

(b) The index must have a comprehensive system of limited access to information as follows:

(1) The index must be accessed only by the entry of an operator identification number and a password.

(2) A child welfare caseworker must be allowed to access only:

(A) cases that are assigned to the caseworker; and

(B) other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A).

(3) A child welfare supervisor may access only the following:

(A) Cases assigned to the supervisor.

(B) Cases assigned to a caseworker who reports to the supervisor.

(C) Other cases or investigations that involve:

(i) a family member of a child; or

(ii) a child;

who is the subject of a case described in clause (A) or (B).

(D) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, child welfare managers, as designated by the department, may access any case,

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except restricted cases involving:

(A) a state employee; or

(B) the immediate family member of a state employee; who has access to the index. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:

(A) users designated by the department as administrators; and

(B) the administrator's level of access as determined by the department.

(6) Ancillary programs that may be designed for the index may not be executed in a manner that would circumvent the index's log-on security measures.

(7) Certain index functions must be accessible only to index operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

(10) The department of child services ombudsman bureau established by IC 4-13-19-3 shall have unlimited access to the index concerning:

(A) complaints filed with; or

(B) cases being investigated by;

the department of child services ombudsman bureau.

SECTION 16. IC 31-34-21-1, AS AMENDED BY P.L.146-2006, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order the department to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

(c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

(d) A juvenile court may refer a case to the department of child services ombudsman bureau established by IC 4-13-19-3 to investigate the implementation of a dispositional decree.

SECTION 17. IC 31-39-2-6, AS AMENDED BY P.L.145-2006, SECTION 359, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2009]: Sec. 6. The records of the juvenile court are available without a court order to:

- (1) the attorney for the department of child services; or
- (2) any authorized staff member of:
 - (A) the county office;
 - (B) the department of child services; ~~or~~
 - (C) the department of correction; ~~or~~
 - (D) the department of child services ombudsman bureau established by IC 4-13-19-3.**

SECTION 18. IC 31-39-4-7, AS AMENDED BY P.L.145-2006, SECTION 361, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The records of a law enforcement agency are available, without specific permission from the head of the agency, to: ~~the~~

- (1) the attorney for the department of child services or any authorized staff member; or**
- (2) any authorized staff member of the department of child services ombudsman bureau established by IC 4-13-19-3.**

SECTION 19. IC 31-39-9-1, AS ADDED BY P.L.67-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The following entities and agencies may exchange records of a child who is a child in need of services or has been determined to be a delinquent child under IC 31-37-1-2, if the information or records are not confidential under state or federal law:

- (1) A court.
- (2) A law enforcement agency.
- (3) The department of correction.
- (4) The department of child services.
- (5) The office of the secretary of family and social services.
- (6) A primary or secondary school, including a public or nonpublic school.
- (7) The department of child services ombudsman bureau established by IC 4-13-19-3.**

SECTION 20. IC 34-30-2-39.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 39.6. IC 4-13-19-6 (Concerning a person who releases information to the department of child services ombudsman).**

SECTION 21. IC 34-30-2-39.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 39.7. IC 4-13-19-9 (Concerning the department of child services ombudsman for the good faith**

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1 **performance of official duties).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1602, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, line 5, delete "correction" and insert "**child services**".

and when so amended that said bill do pass.

(Reference is to HB 1602 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1602 be amended to read as follows:

Page 4, line 13, after "governor." insert "**An individual may not be appointed as director if the individual has been employed by the department of child services at any time during the preceding twelve (12) months.**".

Page 4, line 25, after "initiative," insert "**initiate a**".

Page 4, line 26, delete "a child's death that is sudden, unexpected, or unexplained" and insert "**of any department of child services' action, policy, or procedure or a review**".

Page 5, between lines 39 and 40, begin a new paragraph and insert:

"(c) A copy of the report shall be posted on the department of child services' Internet web site and on any Internet web site maintained by the bureau."

Page 7, line 8, delete "the records of a child who is the" and insert "**all records of the department, including all records of the department related to vendors and contractors; and**".

Page 7, delete line 9.

Page 7, line 10, after "access" insert "**, without prior notice,**".

Page 7, line 10, delete "who is the".

Page 7, line 11, delete "subject of an investigation by the ombudsmen".

(Reference is to HB 1602 as printed February 20, 2009.)

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